

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

V.

CHRISTOPHER ALLEN CAIN, also known as Christopher Cain Bey,

Defendant.

NO: 2:16-CR-069-RMP  
2:16-CR-176-RMP

ORDER DENYING DEFENDANT'S  
MOTION TO VACATE, SET ASIDE,  
OR CORRECT THE SENTENCE  
UNDER 28 U.S.C. § 2255

BEFORE THE COURT is Mr. Cain's sealed filing, ECF No. 170 (in 2:16-

CR-69) and ECF No. 154 (in 2:16-CR-176). The Court has reviewed Mr. Cain's pleadings and is fully informed.

Mr. Cain submitted his present motion on forms provided by the State of Washington. The Court construes the documents as a Motion to Vacate, Set Aside, or Correct the Sentence under 28 U.S.C. § 2255.

The district court “will not review a section 2255 motion until the direct appeal is resolved.” *United States v. Lafromboise*, 427 F.3d 680, 686 (9th Cir. 2005). Because Mr. Cain has filed a notice of appeal for his judgment and ORDER DENYING DEFENDANT’S MOTION TO VACATE, SET ASIDE, CORRECT THE SENTENCE UNDER 28 U.S.C. § 2255 ~ 1

1 sentence, ECF No. 166, the Court finds that Mr. Cain's present motion is  
2 premature.

3 If Mr. Cain wishes to proceed with a § 2255 motion in the future, he must  
4 present his petition on the appropriate form provided by the federal Court, not on a  
5 form for a Washington State court, and only after his direct appeal has been  
6 resolved. The Clerk of Court is directed to provide Mr. Cain with the appropriate  
7 form along with a copy of this order.

8 Accordingly, **IT IS HEREBY ORDERED** that Mr. Cain's Motion to  
9 Vacate, Set Aside, or Correct the Sentence under 28 U.S.C. § 2255, **ECF No. 170**  
10 (in 2:16-CR-69) and **ECF No. 154** (in 2:16-CR-176), is **DENIED** as moot because  
11 it is premature.

12 The District Court Clerk is directed to send Mr. Cain the appropriate 28  
13 U.S.C. § 2255 petition form, enter this Order, and provide copies to counsel and  
14 close the cases.

15 **DATED** November 16, 2017.

16 \_\_\_\_\_  
17 *s/ Rosanna Malouf Peterson*  
18 ROSANNA MALOUF PETERSON  
19 United States District Judge  
20  
21

ORDER DENYING DEFENDANT'S MOTION TO VACATE, SET ASIDE, OR  
CORRECT THE SENTENCE UNDER 28 U.S.C. § 2255 ~ 2